



General Assembly

Substitute Bill No. 114

February Session, 2012

* ____SB00114VA_JUD030912____ *

**AN ACT MAKING VETERANS ELIGIBLE FOR THE PRETRIAL
DIVERSIONARY PROGRAM.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (a) to (e), inclusive, of section 54-56l of the
2 general statutes are repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2012*):

4 (a) There shall be a supervised diversionary program for persons
5 with psychiatric disabilities and veterans accused of a crime or crimes
6 or a motor vehicle violation or violations for which a sentence to a
7 term of imprisonment may be imposed, which crimes or violations are
8 not of a serious nature. For the purposes of this section, (1) "psychiatric
9 disability" means a mental or emotional condition, other than solely
10 substance abuse, that [(1)] (A) has substantial adverse effects on the
11 defendant's ability to function, and [(2)] (B) requires care and
12 treatment, and (2) "veteran" means a veteran, as defined in section 27-
13 103, or a person eligible for the United States Department of Veterans
14 Affairs' services under Title 38 of the United States Code.

15 (b) A person shall be ineligible for participation in such supervised
16 diversionary program if such person (1) is ineligible to participate in
17 the pretrial program for accelerated rehabilitation under subsection (c)
18 of section 54-56e, or (2) has twice previously participated in such
19 supervised diversionary program.

20 (c) Upon application by any such person for participation in such
21 program, the court shall, but only as to the public, order the court file
22 sealed provided such person states under oath, in open court or before
23 any person designated by the clerk and duly authorized to administer
24 oaths, under penalties of perjury, that such person has not had such
25 program invoked in such person's behalf more than once. Court
26 personnel shall provide notice, on a form approved by rule of court, to
27 any victim of such crime or motor vehicle violation, by registered or
28 certified mail, that such person has applied for the program and that
29 such victim has an opportunity to be heard by the court on the matter.

30 (d) The court shall refer such person to the Court Support Services
31 Division for confirmation of eligibility and assessment of the person's
32 mental health condition. The prosecuting attorney shall provide the
33 division with a copy of the police report in the case to assist the
34 division in its assessment. The division shall determine if the person is
35 amenable to treatment and if appropriate services and treatment are
36 available. If the division determines that the person is amenable to
37 treatment and that appropriate services and treatment are available, it
38 shall develop a treatment plan tailored to the person and shall present
39 it to the court.

40 (e) Upon confirmation of eligibility and consideration of the
41 treatment plan presented by the Court Support Services Division, the
42 court may grant such application. If the court grants the application,
43 such person shall be referred to the division. The division shall
44 collaborate with the Department of Mental Health and Addiction
45 Services, the Department of Veterans' Affairs or the United States
46 Department of Veterans Affairs, as applicable, to place such person in
47 a program that provides appropriate community supervision,
48 treatment and services. The person shall be subject to the supervision
49 of a probation officer who has a reduced caseload and specialized
50 training in working with persons with psychiatric disabilities.

51 Sec. 2. Subsection (b) of section 54-56e of the 2012 supplement to the
52 general statutes is repealed and the following is substituted in lieu

53 thereof (*Effective October 1, 2012*):

54 (b) The court may, in its discretion, invoke such program on motion
55 of the defendant or on motion of a state's attorney or prosecuting
56 attorney with respect to a defendant (1) who, the court believes, will
57 probably not offend in the future, (2) who has no previous record of
58 conviction of a crime or of a violation of section 14-196, subsection (c)
59 of section 14-215, section 14-222a, subsection (a) of section 14-224 or
60 section 14-227a, and (3) who states under oath, in open court or before
61 any person designated by the clerk and duly authorized to administer
62 oaths, under the penalties of perjury that the defendant has never had
63 such program invoked in the defendant's behalf, or in the case where
64 the defendant is a veteran, that the defendant has not had such
65 program invoked in the defendant's behalf more than once previously,
66 provided the defendant shall agree thereto and provided notice has
67 been given by the defendant, on a form approved by rule of court, to
68 the victim or victims of such crime or motor vehicle violation, if any,
69 by registered or certified mail and such victim or victims have an
70 opportunity to be heard thereon. Any defendant who makes
71 application for participation in such program shall pay to the court an
72 application fee of thirty-five dollars. For purposes of this subsection,
73 "veteran" means a veteran, as defined in section 27-103, or a person
74 eligible for the United States Department of Veterans Affairs' services
75 under Title 38 of the United States Code.

76 Sec. 3. Subsections (c) to (j), inclusive, of section 54-56i of the general
77 statutes are repealed and the following is substituted in lieu thereof
78 (*Effective October 1, 2012*):

79 (c) The court, after consideration of the recommendation of the
80 state's attorney, assistant state's attorney or deputy assistant state's
81 attorney in charge of the case, may, in its discretion, grant such
82 application. If the court grants such application, the court shall refer
83 such person to the Court Support Services Division for confirmation of
84 the eligibility of the applicant and to the Department of Mental Health
85 and Addiction Services, the Department of Veterans' Affairs or the

86 United States Department of Veterans Affairs, as applicable, for
87 evaluation.

88 (d) (1) Upon confirmation of eligibility and receipt of the evaluation
89 required pursuant to subsection (c) of this section, such person shall be
90 referred to the Department of Mental Health and Addiction Services
91 by the Court Support Services Division for placement in the drug
92 education program. If such person is a veteran, such person may be
93 referred to the Department of Veterans' Affairs or the United States
94 Department of Veterans Affairs by the Court Support Services Division
95 for placement in a comparable drug education program. Participants
96 in [the] any such drug education program shall receive appropriate
97 drug intervention services or substance abuse treatment program
98 services, as recommended by the evaluation conducted pursuant to
99 subsection (c) of this section, and ordered by the court. Placement in
100 [the] a drug education program pursuant to this section shall not
101 exceed one year. Persons receiving substance abuse treatment program
102 services in accordance with the provisions of this section shall only
103 receive such services at state licensed substance abuse treatment
104 program facilities that are in compliance with all state standards
105 governing the operation of such facilities, unless such person is a
106 veteran, in which case the person may receive services at the
107 Department of Veterans' Affairs or the United States Department of
108 Veterans Affairs. Any person who enters [the] any such program shall
109 agree: [(1)] (A) To the tolling of the statute of limitations with respect
110 to such crime; [(2)] (B) to a waiver of such person's right to a speedy
111 trial; [(3)] (C) to complete participation in the ten-session drug
112 intervention program, fifteen-session drug intervention program or
113 substance abuse treatment program, as recommended by the
114 evaluation conducted pursuant to subsection (c) of this section, and
115 ordered by the court; [(4)] (D) to commence participation in the
116 applicable drug education program not later than ninety days after the
117 date of entry of the court order unless granted a delayed entry into the
118 program by the court; and [(5)] (E) upon completion of participation in
119 the applicable pretrial drug education program, to accept placement in

120 a treatment program upon the recommendation of a provider under
121 contract with the Department of Mental Health and Addiction
122 Services, the Department of Veterans' Affairs or the United States
123 Department of Veterans Affairs or placement in a treatment program
124 operated by the Department of Veterans' Affairs or the United States
125 Department of Veterans Affairs or that has standards substantially
126 similar to, or higher than, a program of a provider under contract with
127 the Department of Mental Health and Addiction Services if the Court
128 Support Services Division deems it appropriate. The Court Support
129 Services Division shall require as a condition of participation in the
130 drug education program that any person participating in the ten-
131 session drug intervention program or the substance abuse treatment
132 program also participate in the community service labor program,
133 established pursuant to section 53a-39c, for not less than five days; and
134 that any person participating in the fifteen-session drug intervention
135 program also participate in said community service labor program, for
136 not less than ten days.

137 (2) For purposes of this section, "veteran" means a veteran, as
138 defined in section 27-103, or a person eligible for the United States
139 Department of Veterans Affairs' services under Title 38 of the United
140 States Code.

141 (e) If the Court Support Services Division informs the court that
142 such person is ineligible for the program and the court makes a
143 determination of ineligibility or if the program provider certifies to the
144 court that such person did not successfully complete the assigned
145 program and such person did not request, or the court denied,
146 reinstatement in the program under subsection (i) of this section, the
147 court shall order the court file to be unsealed, enter a plea of not guilty
148 for such person and immediately place the case on the trial list.

149 (f) If such person satisfactorily completes the assigned program,
150 such person may apply for dismissal of the charges against such
151 person and the court, on reviewing the record of such person's
152 participation in such program submitted by the Court Support

153 Services Division and on finding such satisfactory completion, shall
154 dismiss the charges. If such person does not apply for dismissal of the
155 charges against such person after satisfactorily completing the
156 assigned program, the court, upon receipt of the record of such
157 person's participation in such program submitted by the Court
158 Support Services Division, may on its own motion make a finding of
159 such satisfactory completion and dismiss the charges. Upon motion of
160 such person and a showing of good cause, the court may extend the
161 placement period for a reasonable period for such person to complete
162 the assigned program. A record of participation in such program shall
163 be retained by the Court Support Services Division for a period of ten
164 years from the date the court grants the application for participation in
165 the program.

166 (g) At the time the court grants the application for participation in
167 the pretrial drug education program, such person shall pay to the court
168 a nonrefundable program fee of three hundred fifty dollars if such
169 person is ordered to participate in the ten-session drug intervention
170 program or five hundred dollars if such person is ordered to
171 participate in the fifteen-session drug intervention program. If the
172 court orders participation in a substance abuse treatment program,
173 such person shall be responsible for the costs associated with such
174 program. No person may be excluded from any such program for
175 inability to pay such fee or cost, provided (1) such person files with the
176 court an affidavit of indigency or inability to pay, (2) such indigency or
177 inability to pay is confirmed by the Court Support Services Division,
178 and (3) the court enters a finding thereof. The court may waive all or
179 any portion of such fee depending on such person's ability to pay. If
180 the court finds that a person is indigent or unable to pay for a
181 treatment program, the costs of such program shall be paid from the
182 pretrial account established under section 54-56k. If the court denies
183 the application, such person shall not be required to pay the program
184 fee. If the court grants the application, and such person is later
185 determined to be ineligible for participation in such pretrial drug
186 education program or fails to complete the assigned program, the

187 program fee shall not be refunded. All program fees shall be credited
188 to the pretrial account established under section 54-56k.

189 (h) If a person returns to court with certification from a program
190 provider that such person did not successfully complete the assigned
191 program or is no longer amenable to treatment, the provider, to the
192 extent practicable, shall include a recommendation to the court as to
193 whether a ten-session drug intervention program, a fifteen-session
194 drug intervention program or placement in a substance abuse
195 treatment program would best serve such person's needs. The
196 provider shall also indicate whether the current program referral was
197 an initial referral or a reinstatement to the program.

198 (i) When a person subsequently requests reinstatement into a drug
199 intervention program or a substance abuse treatment program and the
200 Court Support Services Division verifies that such person is eligible for
201 reinstatement into such program and thereafter the court favorably
202 acts on such request, such person shall pay a nonrefundable program
203 fee of one hundred seventy-five dollars if ordered to complete a ten-
204 session drug intervention program or two hundred fifty dollars if
205 ordered to complete a fifteen-session drug intervention program, as
206 the case may be. Unless good cause is shown, such fees shall not be
207 waived. If the court grants a person's request to be reinstated into a
208 substance abuse treatment program, such person shall be responsible
209 for the costs, if any, associated with being reinstated into the treatment
210 program. All program fees collected in connection with a
211 reinstatement to a drug intervention program shall be credited to the
212 pretrial account established under section 54-56k. No person shall be
213 permitted more than two program reinstatements pursuant to this
214 subsection.

215 (j) The Department of Mental Health and Addiction Services shall
216 develop standards and oversee appropriate drug education programs
217 that it administers to meet the requirements of this section and may
218 contract with service providers to provide such programs. [The] Said
219 department shall adopt regulations, in accordance with chapter 54, to

220 establish standards for such drug education programs.

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| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2012</i> | 54-56l(a) to (e) |
| Sec. 2 | <i>October 1, 2012</i> | 54-56e(b) |
| Sec. 3 | <i>October 1, 2012</i> | 54-56i(c) to (j) |

Statement of Legislative Commissioners:

In the last sentence of section 3(j), existing language referring to the "department" and "such drug education programs" was restored for conciseness.

VA *Joint Favorable Subst. C/R*

JUD